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# THE RISE OF STUDENT LAW JOURNALS IN SCOTLAND

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## Introduction

In recent years, there have been a number of new additions to the landscape of Scottish legal literature: student law journals. This development may have escaped the attention of many practitioners, given that participation in such journals has largely been confined to the university environment – as has their general readership. The first of the recent tranche to be published was the *Edinburgh Student Law Review* in 2009.<sup>1</sup> Since then, students at other universities in Scotland have followed suit with their own publications: the *Aberdeen Student Law Review* (first published in 2010); the *Edinburgh Napier Student Law Review* (first published in 2013); the *GULS Law Review* (*Glasgow University Law Society Law Review*, first published in 2014 but existing in online blog format since 2013); the *Strathclyde Law Review* (first published in 2014); and the *Dundee Student Law Review* (first published in 2015).

Publications by law students are not without precedent in Scotland. Between 1981 and 1988, for example, twenty-one issues of the *Old College Times* were produced by Edinburgh University students.<sup>2</sup> These were published in a newspaper or magazine format and focused primarily on matters of interest to students at the Law School: the study of law at Edinburgh, legal education in Scotland more generally, the legal profession and certain more substantive legal issues. Though primarily student-written, the *Old College Times* also featured short articles by academics, alongside profiles of senior jurists at the University.<sup>3</sup> A number of those involved with the publication have gone on to become notable figures in the Scottish legal community.<sup>4</sup> Shortly after its demise, the *Old College Times* was followed by the *Scottish Student Law Review* (again, Edinburgh-based). This publication's existence was, however, brief and only four issues appear to have been published (1990-1991). It contained articles, interviews and light-hearted pieces in a magazine-style format similar to that of the *Journal of the Law Society of*

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<sup>1</sup> Following the formal establishment of the journal the previous year. Another Edinburgh University law publication run (largely) by students is the online law and technology specialist journal SCRIPTed (available at <https://script-ed.org/>), which was first published in 2004. However, SCRIPTed principally contains articles written by academics rather than students.

<sup>2</sup> Copies of the *Old College Times* are available at University of Edinburgh Library, Centre for Research Collections – Special Collections (Ref: Da67 Law).

<sup>3</sup> See e.g. D. Walker, “The way ahead” 1981 (4) *Old College Times* 6; G. Gretton, “How to ignore a notice to quit” 1982 (6) *Old College Times* 3; and profiles of e.g. N. McCormick (1984 (10) *Old College Times* 8); R.A. McCall Smith (1983/84 (13) *Old College Times* 3); and W.A. Wilson (1985/6 (16) *Old College Times* 8).

<sup>4</sup> E.g. Lord Arthurson, Simon Di Rollo QC and the current Lord Advocate, James Wolffe QC.

Scotland.<sup>5</sup> A similarly fleeting publication, the *Scots Law Student Journal*, was facilitated by technological developments around the turn of the millennium. Unlike the other publications just mentioned, this was an online-only forum for Scottish law students to publish essays and other assignments.<sup>6</sup>

The current wave of student law journals can be contrasted with these earlier publications in particular respects. At a superficial level, there is simply a greater volume of law-related student publications in Scotland than has ever been the case before. More substantively, and unlike their predecessors, they are produced in the style of established academic-run journals. Yet similarities can also be identified, not least a persisting desire of students to be involved, in some capacity, with writing, editing and publishing their reflections on the law. The recent proliferation of student law journals suggests that students, and other stakeholders, believe these publications to hold some recognisable value. What that value is will be considered in the course of this article. It is, undoubtedly, an interesting time to be involved with these journals as they gain momentum and acquire their own particular identities. And it is also an opportune moment to examine their background, purpose and worth more critically. Having done this, it will then be possible to offer some thoughts on what the future holds for this form of publication in Scotland.

### **The history of student law journals**

As the name suggests, a student law journal is a legal publication run and edited by students. The concept is, for good reason, most associated with the USA, where the majority of law journals fit this description. Since this includes some of the most prestigious journals in the USA (and, indeed, the world, e.g. the *Harvard Law Review* and *Columbia Law Review*), the term “law review” has become largely synonymous with student-run law journals in American legal parlance.

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<sup>5</sup> The *Scottish Student Law Review* is available from the University of Edinburgh, Law and Europa Library (Serials). For articles written by academics and practitioners, see e.g. J. Murray, “Criminal liability of corporations” 1990 (2) *Scottish Student Law Review* 12; and a two-piece article on competition law: J. McLean, “Fair competition?” 1991 (3) *Scottish Student Law Review* 12; and “Community law” 1991 (4) *Scottish Student Law Review* 20. Interviewees for the publication included the then Lord Advocate, Lord Fraser of Carmylie QC, 1990 (2) *Scottish Student Law Review* 6; and Sir Geoffrey Howe, 1991 (3) *Scottish Student Law Review* 4.

<sup>6</sup> With this purpose in mind, the editors of the journal noted commendably that the site was “not intended to lead to an increase in plagiarism” and, perhaps more optimistically, that “Lecturers at the Universities will be informed of the existence of the SLSJ and will no doubt familiarise themselves with the content of each issue”: <http://www.scottishlaw.org.uk/journal/>.

The American student law journals originated in the late nineteenth century.<sup>7</sup> First to appear was the *Albany Law School Journal*, established in 1875 but running for only one year.<sup>8</sup> This was followed in the ensuing decades by a number of similar publications, including the *Harvard Law Review* (first published in 1887).<sup>9</sup> The students involved in these publications appear to have been motivated by a desire for practical, yet scholarly, commentary on the law. Around this time, journals serving a similar purpose also began to appear in the UK – most notably, in England, the *Law Quarterly Review* (first published in 1885) and, in Scotland, the *Juridical Review* (first published in 1889).<sup>10</sup> These journals were, however, run from the outset by academics and practitioners rather than by students.<sup>11</sup> The extent to which this divergence in management structure arose from corresponding differences in legal practice and education in the USA and in Britain must be left for another day.<sup>12</sup> In any event, the two original models have had a long-term impact on the form which these journals have assumed in the present.

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<sup>7</sup> See e.g. M.I. Swygert and J.W. Bruce, “The historical origins, founding and early development of student-edited law reviews” (1985) 36 *Hastings Law Journal* 739; M.L. Closen and R.J. Zielak, “The history and influence of the law review institution” (1996) 30 *Akron Law Review* 15; and J.W. Harper, “Why student-run law reviews?” (1998) 82 *Minnesota Law Review* 1261, 1263-1265.

<sup>8</sup> *Ibid* (Harper), 1263. The journal was met with a mixed response from contemporary commercial journals, the *Central Law Journal* stating that, “[a]ltogether it is quite credible. Of course it is not a man’s law journal.” The note continued, “Each one of these boys is an immense aggregation of force which must needs work itself off in some direction; and it is much better that such electric batteries should be turned upon a novel experiment like this, than that they should expend their energies in stopping chimneys and robbing suburban hen-roosts.” “Legal News and Notes” (25 February 1876) 3(8) *Central Law Journal*, 136. For more on the reaction to the *Albany Law School Journal* see Swygert and Bruce, “The historical origins, founding, and early development of student-edited law reviews” (1985) 36 *Hastings Law Journal* 739, 764 ff. The journal would eventually be succeeded by the *Albany Law Review* in 1931.

<sup>9</sup> The *Harvard Law Review* seems to be the longest continually published student law review under the same title. For a history of the *Harvard Law Review*, see E. Griswold, “The *Harvard Law Review* – Glimpses of its history as seen by an aficionado” in *Centennial Album of the Harvard Law Review* (1987): <http://harvardlawreview.org/1987/01/glimpses-of-its-history-as-seen-by-an-aficionado/>. Though the *University of Pennsylvania Law Review* claims to be the oldest law review in the USA, it was originally published in 1852 as the *American Law Register* and was not edited by students until 1896: <http://www.pennlawreview.com/about/about.php> and E.J. Greenlee, “The University of Pennsylvania Law Review: 150 years of history” (2002) 150 *University of Pennsylvania Law Review* 1875, 1880.

<sup>10</sup> In the first issue of the *Juridical Review*, the editors make express reference to the *Law Quarterly Review* and to the American journals, “Prefatory note” (1889) 1 *JR* 1, 2. The *Scots Law Times* (first published in 1893) and the *Scottish Law Review* (first published in 1885) also appeared at this time. For more information, see R. Zimmermann, “Law journals in nineteenth-century Scotland” (2008) 12 *Edin LR* 9, 21-24. For England, see D. Ibbetson, “Legal periodicals in England 1820-1870” (2006) 28 *Zeitschrift für Neuere Rechtsgeschichte* 175 and S. Vogenauer, “Law journals in nineteenth-century England” (2008) 12 *Edin LR* 26.

<sup>11</sup> See, e.g., F. Pollock, “Our jubilee” (1935) 51 *LQR* 5. At 10 he refers to the likely role of the *LQR* in preparing the way for the *Harvard Law Review*. If anything, Pollock was eager to downplay the university connections of the *LQR*, noting at 6-7: “We were anything but a mere academic clique; indeed Holland was the only one who could be justly called a typical academic scholar, and it was desirable to make this plain from the outset by fixing the seat of editorial work in London...” While a number of periodicals appeared in England under titles such as *The Law Student’s Magazine* (established in 1844) and *The Law Students’ Journal* (established in 1878), these were produced for rather than by students and were primarily concerned with exam preparation – *ibid* (Vogenauer), 40-41. Vogenauer lists fifteen such titles and remarks that “the contents were as interchangeable as the names.”

<sup>12</sup> A.V. Dicey, “The teaching of English law at Harvard” (1900) 13(5) *Harvard Law Review* 422, analyses teaching at Harvard and compares the position to England. He directly refers (at 436) to the role of the *Harvard Law Review* and states that few Englishmen were aware that it was managed by students. A review of this article appears in the *Juridical Review* at (1899) 11 *JR* 329.

Overturning student control of the American journals, once they had won the initial race for establishment, has proved to be a largely forlorn task.<sup>13</sup>

For a long time, student law journals remained a peculiarly American phenomenon. Admittedly, there were some notable exceptions in other jurisdictions. For example, all but one of the original editorial board members of the *Cambridge Law Journal* (first published in 1921) were students.<sup>14</sup> As in the American journals, the principal articles in the *Cambridge Law Journal* were written by academics with (case) notes being provided by students. Nevertheless, from a general European perspective, the American law reviews remained intriguingly alien. This has been commented upon by scholars such as Professor Reinhard Zimmermann, who has described them as “one of the most remarkable institutions of American legal culture”.<sup>15</sup> In the last few decades, however, student law journals have gained a foothold in Europe – they can now be found, for instance, in Germany, Ireland, Italy, and the Netherlands.<sup>16</sup> Given the high mortality rate of student publications, it is difficult to say with any conviction which was the first modern student-run journal in Britain. The *UCL Jurisprudence Review* (first published in 1994 and published as the *UCL Journal of Law and Jurisprudence* since 2012) does, however, claim to have been the first academic journal in the country to be run and written by students.<sup>17</sup>

Although the student-edited nature of many American journals can be considered an important influence upon the European student law journals, this is perhaps as far as the connection extends. A fundamental difference between the two formats is that the European journals (in nearly all cases) primarily feature contributions from students rather than academics. This means that work published in the US journals is of a considerably higher standard and that those journals have, in turn, achieved a far

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<sup>13</sup> See below for criticisms of the student-run law reviews.

<sup>14</sup> H.D. Hazeltine, “Foreword” (1921) *The Cambridge Law Journal* 1, 3. The *Harvard Law Review* appears to have been something of an influence here, H.A. Hollond, “The origin of the Journal: introductory note” (1972) 31 *The Cambridge Law Journal* (Jubilee Issue) 3; A.L. Goodhart, “The origin of the Journal” (1972) 31 *The Cambridge Law Journal* (Jubilee Issue) 4, 4-6. See also C.R.G. Murray, L. Pitsillidou and C. Caine, “Student-led law reviews: what every UK law school needs?” (2017) 51 *The Law Teacher* 170, 176-177.

<sup>15</sup> R. Zimmermann, “Law reviews: a foray through a strange world” (1998) 47 *Emory Law Journal* 659, 660. See M.L. Closen and R.J. Dzielak, “The history and influence of the law review institution” (1996) 30 *Akron Law Review* 15, 41-43 for details of student law journals in other common law jurisdictions, especially Australia.

<sup>16</sup> E.g. *Heidelberg Law Review* (Germany, <http://www.studzr.de/>); *Bucerius Law Journal* (Germany, <http://law-journal.de/en/>); *Trinity College Law Review* (Ireland, <http://trinitycollegelawreview.org/>); *Groningen Journal of International Law* (Netherlands, <https://grojil.org/>); *Maastricht Student Law Review* (Netherlands, <http://www.mslawreview.eu/>). An inexhaustive list of European student law journals is provided by L. Russi and F. Longobardi, “A tiny heart beating: student-edited legal periodicals in good ol’ Europe” (2009) 10(7) *German Law Journal* 1127, 1146-1147. The earliest European journal noted by Russi and Longobardi is the *Irish Student Law Review* (1991-2010). As this is no longer published, the *Trinity College Law Review* (first published in 1998) refers to itself on its website as “Ireland’s oldest and leading student-edited law journal”.

<sup>17</sup> A University of Durham publication, *Inter Alia*, was first published in 1992 but mainly featured articles by non-students (it was later succeeded by the *Durham Law Review*). There are now a large number of student law journals in the UK, including UK-wide journals like the UK Law Students’ Association’s *Legal Issues* (formerly the *UK Law Student Review*). For more details, see Murray, Pitsillidou and Caine, “Student-led law reviews: what every UK law school needs?” (2017) 51 *The Law Teacher* 170, 177-179.

greater level of renown and stature. They also, of course, have a long tradition and history, as well as a (sometimes staggeringly) large body of student editorial staff, significant finances and a more frequent publication basis.<sup>18</sup> Indeed, in many respects, any attempt at comparison between US and non-US student law journals will simply demonstrate that they are incomparable.

Against this background, it is understandable that the vast majority of writing about student-run journals comes from the USA. Much of this literature has been critical and the assumption of editorial responsibilities by students remains particularly controversial among academics. In the earlier literature, criticism tended to focus on the stodgy and stilted style preferred by overly-cautious student editors.<sup>19</sup> In more recent times, however, the renowned scholar Richard Posner – a former *Harvard Law Review* President – has made a number of trenchant attacks on the ability of an inexperienced, and relatively transient, student body to provide the editorial skills required for top-level legal scholarship.<sup>20</sup> Particularly concerning in Posner’s view are student editors’ tendencies to judge the quality of an article by its length and to focus on faddish “hot” topics at the expense of “equally important commercial subjects that cry out for informed doctrinal analysis”.<sup>21</sup> This, coupled with the fact that most members of law review boards spend only two years in their position, means that American legal scholarship is poorly served in comparison with other academic fields, in which dedicated academic editors provide not only specialist knowledge of their subject but also many years of experience in the more technical aspects of journal editing.<sup>22</sup> Though others have sought bravely to defend the format,<sup>23</sup> there does seem to be a growing consensus that student-run law reviews require some type of reform.<sup>24</sup> Yet, given how embedded the existing law review system and structure is within American legal culture, it seems certain that any substantial reforms will prove a challenging undertaking.

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<sup>18</sup> For example, there were almost 100 members of the board of editors for the *Harvard Law Review* in 2016–2017. See <http://harvardlawreview.org/about/> for details about this and other matters relating to the review.

<sup>19</sup> F. Rodell, “Goodbye to law reviews” (1936) 23 *Virginia Law Review* 38. See also F. Rodell, “Goodbye to law reviews – revisited” (1962) 48 *Virginia Law Review* 279; and H.T. Edwards, “Another look at Professor Rodell’s Goodbye to law reviews” (2014) 100 *Virginia Law Review* 1483.

<sup>20</sup> See e.g. R.A. Posner, “The future of the student-edited law review” (1995) 47 *Stanford Law Review* 1131 – in which Posner graciously admits, at 1132, that “Given the handicaps of ignorance, immaturity, inexperience, and inadequate incentives, the wonder is not that law reviews leave much to be desired as scholarly journals, but that they aren’t *much* worse than they are”. See also, R.A. Posner, “Against the law reviews: welcome to a world where inexperienced editors make articles about the wrong topics worse” (Nov-Dec 2004) *Legal Affairs*, 57 – available at [http://www.legalaffairs.org/issues/November-December-2004/review\\_posner\\_novdec04.msp](http://www.legalaffairs.org/issues/November-December-2004/review_posner_novdec04.msp); R.A. Posner, “Law reviews” (2006) 46 *Washburn Law Journal* 155.

<sup>21</sup> *Ibid*, Posner 46 *Washburn Law* 155, 157, 161.

<sup>22</sup> *Ibid*, 155.

<sup>23</sup> E.g. F. Olsen, “The role of student-run journals in opening North American law” (2001) 39(3) *Alberta Law Review* 678; N.C. Cotton, “The competence of students as editors of law reviews: a response to Judge Posner” (2006) 154 *University of Pennsylvania Law Review* 951; C. Stracher, “Reading, writing, and citing: in praise of law reviews” (2007–2008) 52(3) *New York Law School Law Review* 349.

<sup>24</sup> R.A. Wise et al, “Do law reviews need reform: a survey of law professors, student editors, attorneys, and judges” (2013) 59(1) *Loyola Law Review* 1. See also e.g. J.D. Baker, “Relics or relevant: the value of the modern law review” (2009) 111(3) *West Virginia Law Review* 919.



But to what extent should these criticisms be taken into account by those now involved in running Scottish student law journals? In our view, the majority of criticisms directed at the American student law journals are not particularly compelling from a Scottish (or wider European) perspective. This is because they arise mainly from the fact that students, in only their second or third year of studying law, are placed in control of journals that publish work written by far more senior and experienced legal academics and professionals. This differs from the situation in Scotland, where students edit articles produced by their fellow students and academics edit articles produced by other academics (and certain legal practitioners). In this respect, the Scottish set-up undercuts any criticism of student law journals rooted in a concern for the state of legal scholarship in general: any perceived deficiencies on the part of student editors will have no effect on the ability of the academic-run journals to provide an appropriate forum for academic research. Accordingly, the Scottish student law journals can only be evaluated on the basis of how well they fulfil the particular roles which they have assumed in Scotland.

### **The role(s) of student law journals in Scotland**

Given the different historical circumstances which faced the founders of student law journals in the USA and in Europe, it is no surprise that their journals have assumed notably different roles on each side of the Atlantic. In Europe generally, and in Scotland and the rest of the UK more particularly, peer-reviewed academic-run journals reign supreme. Such journals provide the main forum for significant academic work by legal scholars, the equivalent of which would appear in student-run law journals in the USA. Clearly, the Scottish student law journals have little chance of challenging academic-run journals in this respect. Their contribution to legal scholarship, in the narrow sense, is therefore likely to remain marginal – at least in comparison to the *Edinburgh Law Review* or *Juridical Review*. But this is not the only purpose which student law journals can serve. Indeed, as has already been hinted at above, this may be one of the purposes for which a student-run journal is least suited.

In our view, the various activities of the Scottish student law journals have two broad functions. On the one hand, the journals perform a pedagogical function by enabling students to learn what is involved in running, editing and contributing to an academic journal. On the other hand, the journals also have a role to play in the dissemination of student research. Of these two functions, it is perhaps the first which has been the most prominent motivation in the minds of those involved in the journals.

Student law journals provide opportunities for active students to acquire editing experience (as in the USA) and to produce legal writing for publication.<sup>25</sup> As far as editing is concerned, the professional

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<sup>25</sup> Again, the vast majority of discussion regarding the value and purpose of student-run law journals comes from the USA. Many of the points (although not all of them given the differences between the journal types) are also applicable in the Scottish context. J.W. Harper, “Why student-run law reviews” (1997) 82(5) *Minnesota*

value of this has long been recognised in the USA.<sup>26</sup> The skills required for editing and publishing a journal – and the experience gained in doing so – are as useful for practice as a solicitor as they are within academia. Alongside actual editing, there are a number of other matters which students can become involved in, such as finance, website management and publicity. With respect to legal writing, student law journals offer an environment in which students can become comfortable with the requirements of having work published and, in particular, the process of having their work reviewed, criticised and (hopefully) improved. This is particularly helpful where students are interested in becoming academics and submitting their work to peer-reviewed journals. In a number of senses, student law journals therefore have a staging post function.

On a related note, it is perhaps no coincidence that the first of the present crop of Scottish student law journals was established in 2009 in the wake of the financial crisis. Increasingly, students wish to engage in extra-curricular activities to boost their future career prospects in a competitive jobs market, while also making a positive contribution to the university environment. Other prominent examples of institutions where law students can involve themselves in constructive university-based work are mooting societies and university law clinics. The latter, in particular, have also experienced enormous growth in recent times.<sup>27</sup> The contribution that each of these activities can offer to the aspiring solicitor is clear: the client care and negotiation skills of the law clinic, the oratorical and strategic abilities developed by mootng, and the project management and legal writing skills fostered by the student law journal.

That a number of organisations, in particular law firms and universities, have recognised the value of student law journals can be seen from the support they have provided to the journals in their fledgling years. These relationships are developing in interesting ways. Some sponsors, for example, now offer prizes (cash, books and summer placements) for the best submissions; others collaborate with journals in providing professional skills workshops and legal careers guidance. Senior legal figures from the

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*Law Review* 1261. N.H. Saunders, “Student-edited law reviews: reflections and responses of an inmate” (2000) 49(6) *Duke Law Journal* 1663. J.D. Baker, “Relics or relevant: the value of the modern law review” (2009) 111(3) *West Virginia Law Review* 919.

<sup>26</sup> The weight accorded to law review editorships in America was noted by Lord Hope of Craighead in his foreword to the inaugural issue of the *Edinburgh Student Law Review* (2009). By way of example, Barack Obama was president of the *Harvard Law Review* and US Supreme Court Chief Justice John Roberts was a managing editor. For an empirical study of the issue, see M. Stier et al, “Project, law review usage and suggestions for improvement: a survey of attorneys, professors, and judges” (1992) 44 *Stanford Law Review* 1467, 1487-90. This is based upon a survey in which judges and attorneys provided their views regarding the effect of law review membership when they make decisions to hire candidates. See also D. Samida, “The value of law review membership” (2004) 71(4) *University of Chicago Law Review* 1721.

<sup>27</sup> For example, the University of Strathclyde Law Clinic launched in October 2003, while the University of Edinburgh Free Legal Advice Centre was established in 2007. The Scottish University Law Clinic Network was created in 2012.



bench, bar and academia have also shown their support by taking on various (honorary or advisory) roles with the student law journals.<sup>28</sup>

Beyond their provision of editing and writing experience, however, it must be remembered that journals are published – or, at least, ought to be published – to be read. Most issues of each journal contain a range of articles on various topics and can therefore potentially appeal to a wide range of readers: students, practitioners and academics alike. Some student law journals are easily accessible via dedicated websites and/or online databases, such as *HeinOnline* and *Westlaw*. Some can also be found in a number of the Scottish university libraries. Yet student law journals, in Scotland at least, are still searching for a particular identity. They are attempting to establish a place for themselves in the legal publications market. Articles written by students, and featuring in journals edited by students, encounter a credibility challenge. Potential readers may view such contributions with wariness and caution. And student law journals are also competing for a limited amount of reading time within an environment saturated with information.<sup>29</sup> These factors must be borne in mind before the Scottish student law journals aspire in any respect to emulate their American forerunners in gaining a seat at the table of academic legal scholarship.

### **The future of student law journals in Scotland**

Student law journals in Scotland are still in their infancy. Currently, their most significant function is providing opportunities for students to gain experience in writing, editing and project management. This, in turn, bolsters the CVs of those who become actively involved. The journals accordingly serve a supporting function for the legal profession (the solicitor's branch and the academic branch),<sup>30</sup> both exhibiting and developing the skills of those involved with the journals and better preparing them for future work. Student law journals are well suited for this role and it is likely that this will continue to be the case for the foreseeable future.

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<sup>28</sup> In particular, Lord Hope of Craighead has been a strong supporter of student law journals, providing forewords to both the *Edinburgh Student Law Review* (2009 and 2010), in his capacity as their honorary president, and the *Strathclyde Law Review* (2013). Lord Hope also provided a foreword to the first edition of the *Scottish Student Law Review* (1990) and has had an address to the Aberdeen Law Project published at (2014) 4 *Aberdeen Student LR* 151.

<sup>29</sup> In some respects, this is perhaps easier in a system such as Scotland, where a number of interesting topics remain under-researched and ripe for student investigation – e.g. J. Townsend, “Raising Lazarus: why spuilzie should be resurrected” (2011) 2 *Aberdeen Student LR* 22; K. Anderson, “Case comment: *Royal Bank of Scotland v Stuart Hill*” (2013) 4 *Aberdeen Student LR* 105.

<sup>30</sup> This is also represented by the mix of those involved in running and writing for the journals – from individuals at an early stage in their LLB degrees through to students coming towards the end of their PhD studies. In addition, postgraduate students from foreign universities have also provided contributions.

The biggest uncertainty about the future of student law journals in Scotland is the extent to which they can also develop as a distinct academic and practical legal source. At present, there is a clear separation between the student law journals and their academic-run counterparts. The latter include scholarly work produced by full-time academics and senior members of the legal profession, peer-reviewed by other such individuals. The former provide a forum for individuals in the early stages of their legal career to have their work reviewed by other students at similar stages. There is, as a result, a disparity in standard and prestige between them. This is not to say that student law journals cannot play an important supporting role. Perhaps, as they become a more familiar and long-established presence in Scotland, and as those involved with them reach positions of influence in academia and practice, there will be greater interest in the contents of past and future journals.

Legitimacy is, in a sense, infectious. By citing articles which have appeared in student law journals, established academics confer legitimacy not only upon that particular article and its author but also upon the journal in which that article was published (and, arguably, the student law journal movement as a whole). Examples of such citation are, admittedly, still rare.<sup>31</sup> Contributors to more-established peer-reviewed journals and other legal publications can serve a gatekeeper function with respect to the academic value of contributions in student law journals. If pieces of work exhibit scholarly merit – or address topics which have been otherwise overlooked in more established sources – then they ought to be cited by those who write about related matters.<sup>32</sup> To do this, it is necessary for such writers to know of the student law journals and their contents. In this regard, those involved in running student law journals must work hard to publicise the journals. They should seek to make them as readily available as possible while also achieving an appropriate balance between quality control and recognising the journals' role as a forum for students to express their views on legal matters.

It is extremely difficult to imagine a scenario in which student-law journals could pose a direct challenge to the academic-run peer-reviewed journals already established in Scotland. The experience gap between the two formats, both with respect to editorial teams and contributors, is unbridgeable. Indeed,

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<sup>31</sup> E.g. S. Allison, "The concept of 'personal data' under the data protection regime" (2009) 1(1) *Edin SLR* 48, cited in G. Black, "Data protection" in *The Laws of Scotland: Stair Memorial Encyclopaedia*, Reissue (LexisNexis, 2010), para 64 n 3; T. Juutilainen, "Secured transactions laws: centralized or spontaneous harmonization" (2010) 1(2) *Edin SLR* 14, cited in Scottish Law Commission, *Discussion Paper on Moveable Transactions* (DP 151, 2011), para 2.2, n 2; C.M. Hood, "Execution in counterpart in Scots Law" (2013) 4 *Aberdeen SLR* 63, cited in J. Hardman, "Necessary and balanced? Critical analysis of the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015" 2016 JR 177, 179, fn 11; A.S.S. Peterson, "Keeping up appearances: prescriptive possession of servitudes" (2013) 2(1) *Edin SLR* 1, cited in G.L. Gretton and A.J.M. Steven, *Property, Trusts and Succession*, 2<sup>nd</sup> edn (Haywards Heath: Bloomsbury Professional, 2013), para 12.27, n 92.

<sup>32</sup> Given the range of contributors to student law journals, in particular regarding their respective stages of legal education, there is likely to be variation in quality.

even were student journals to feature articles by established academics alongside student work,<sup>33</sup> the (aforementioned) standard and prestige differential would remain: academics would still submit their most significant work to the more-established peer-reviewed journals. To challenge peer-reviewed journals, student law journals would need to become them and in so doing would no longer be student journals.<sup>34</sup> This means that student law journals cannot challenge the established academic-run journals, and nor should they try to do so. They emerged, and have so far been successful, because they satisfy demands: students want to gain experience of running a law journal, and everything that comes with that; they also want there to be a specific place where their writings can be published.<sup>35</sup> Yet, in order to survive, student law journals must be responsive to particular needs within the legal community: as well as students, that includes academics, practitioners, and the legal profession more generally. The better that they cater for those needs, the more successful, and sustainable, they will be.

There are a number of potentially interesting ways in which student law journals in Scotland may develop. And, consequently, a variety of questions are raised. How closely affiliated with universities and law schools should these journals be? Should they feature controversial views on legal issues that would be unlikely to feature in other journals? Should they provide a forum for matters of particular interest to students or should their contents appeal more widely?<sup>36</sup> How can they best manage the involvement and contributions of different levels of student? How should they engage with one another and with other legal publications?<sup>37</sup> Should they take on further functions beyond simply publishing journals? How should they promote themselves? Should the publishing of journals be connected to academic or professional events?<sup>38</sup> What roles can they play in legal education?<sup>39</sup> And so on. It is up to current and future law students to wrestle with these questions and to identify the most appropriate answers. No matter how the story of student law journals unfolds, student involvement in legal editing

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<sup>33</sup> There are already a few (short) examples of this, see e.g. R. Zimmermann “Exodus” (2016) 3(1) *Edin SLR* 1; and G. Gretton, “Of breadth and depth and the Andromeda Galaxy” (2017) 3(2) *Edin SLR* 1.

<sup>34</sup> If they sought to do so, the powerful objections against the American journals would become applicable and, consequently, they would have to shed virtually all aspects of their student identity: student-control of the journals, student submissions, even the term “student” would require to be omitted from the titles of the journals. It might be possible to have a rump of continued student involvement with respect to e.g. editorial functions. But this would be of little value if academics were willing to do the work.

<sup>35</sup> With less difficulty and less competition than is the case in having work published in more traditional journals. The needs that caused the American student law journals to emerge were different (they addressed the requirements of legal practice), as was the environment into which they emerged.

<sup>36</sup> In Germany, for example, there are legal education periodicals edited by and with contributions from academics and other legal professionals, but largely with the interests and needs of students in mind – some of the most well-known are *Juristische Ausbildung*, *Juristische Schulung*, and *Juristische Arbeitsblätter*.

<sup>37</sup> One idea could be to formulate a standard style, reminiscent of the US Bluebook: A Uniform System of Citation. For humorous discussion of the Bluebook see R.Z., “An even higher status than the Bible...” (2013) (3) *Zeitschrift für Europäisches Privatrecht* 687.

<sup>38</sup> The *Edinburgh Student Law Review*, for example, has published articles based on papers delivered at postgraduate conferences. On a related point, many US universities have general student law journals as well as student journals dedicated to particular aspects and areas of law.

<sup>39</sup> See Russi and Longobardi, “A tiny heart beating: student-edited legal periodicals in good ol’ Europe” (2009) 10(7) *German Law Journal* 1127, for discussion.

and writing, and extra-curricular engagement with law, is desirable and a cause for celebration within the wider Scottish legal community.